

DLD-52

November 16, 2006

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. **06-2989**

DANIEL R. COUSINS

VS

THOMAS CARROLL, ET AL.

(D. DEL. CIV. NO. 05-CV-00212))

Present: BARRY, AMBRO AND FISHER, CIRCUIT JUDGES

Submitted is appellant's request for a certificate of appealability under 28 U.S.C. § 2253(c)(1);

in the above-captioned case.

Respectfully,

Clerk

MMW/EMC/zm/lwc

ORDER

The foregoing request for a certificate of appealability is denied, as jurists of reason could not debate that the District Court properly denied Appellant's § 2254 habeas petition as untimely filed. 28 U.S.C. § 2244(d)(1)(A). As the District Court explained, statutory tolling cannot save Appellant's petition from dismissal, and Appellant has not shown circumstances that would warrant equitable tolling. 28 U.S.C. § 2244(d)(2); Miller v. New Jersey State Dep't of Corr., 145 F.3d 616, 618 (3d Cir. 1998).

By the Court,

/s/ Maryanne Trump Barry
Circuit Judge

Dated: December 14, 2006

CLC\cc: Mr. Daniel R. Cousins

Thomas E. Brown, Esq.